

**Office of Tribal Relations, Office of the Secretary**

**MEMBERSHIP BALANCE PLAN**

1. Committee's Official Designation

Council for Native American Farming and Ranching.

2. Authority

The Secretary establishes the Council as a discretionary advisory committee under agency authority and it will operate pursuant to the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C App.2. USDA reserves to itself all discretion required by FACA.

3. Objectives and Scope of Activities

The objectives and purpose of this Council is: (1) to advise the Secretary of Agriculture on issues related to the participation of Native American farmers and ranchers in USDA programs; (2) to transmit recommendations concerning any changes to regulations or internal guidance or other measures that would eliminate barriers to program participation for Native American farmers and ranchers; (3) to examine methods of maximizing the number of new farming and ranching opportunities created through enhanced extension, sound conservation practices, targeted rural business services, and financial literacy services; (4) to examine methods of encouraging intergovernmental cooperation to mitigate the effects of land tenure and probate issues on the delivery of USDA programs; (5) to evaluate other methods of creating new farming or ranching opportunities for Native American producers; and (6) to address other Native American related issues as deemed appropriate.

4. Points of View Needed for the Advisory Committee

The Council shall consist of 15 members appointed by the Secretary of Agriculture. To ensure that the recommendations of the Council have taken into account the needs of the diverse groups served by USDA, membership shall include individuals who are minorities, women, and persons with disabilities as well as persons who represent a diverse range of experience in different types of production agriculture. In addition, regional balance will be sought so that those representing Native American farmer and ranchers are sought and seated from throughout the country.

a. Of the 15 members, no fewer than eleven shall be selected to represent the interests of Native American farmers and ranchers, and include:

- 1) Native American farmers or ranchers who have participated in USDA loan, grant, conservation, or payment programs;
- 2) Representatives of organizations with a history of working with Native American farmers or ranchers;
- 3) Representatives of tribal governments with demonstrated experience working with Native American farmers or ranchers;

- 4) Such other persons as the Secretary considers appropriate.
  - b. In addition to Native American farmers or ranchers and persons who represent the interests of Native American farmers or ranchers, members shall also include USDA representatives from the following:
    - 1) Director, Office of Tribal Relations or designee;
    - 2) Administrator, Farm Service Agency or designee;
    - 3) Chief, Natural Resources Conservation Service or designee;
    - 4) Assistant Secretary for Civil Rights or his or her delegate;
  - c. Members representing Native American interests shall be appointed by the Secretary and shall serve no longer than three (3) consecutive two-year terms. Pursuant to 7 U.S.C. § 2283(c), no person other than an officer or employee of the Department of Agriculture may serve for more than six consecutive years on an advisory committee, unless authorized by the Secretary.
  - d. Every effort will be made to ensure that the membership of this Council is balanced. Nevertheless, USDA recognizes that membership is not static and may change, depending on the work of the Council.
  - e. The Council shall elect a Chairperson.
  - f. Quorum: A minimum of eight (8) members shall be present or participating by telephone or other electronic means such as video conferencing to constitute a quorum. At least one of those eight persons must be a Council member who represents USDA. Ex-officio members are non-voting members and will not be counted toward meeting the minimum of eight members to have a quorum.
5. Other Balance Factors
- Equal opportunity practices in accordance with USDA policies will be followed in all appointments to the Council.
- To ensure that the recommendations of the Council have taken into account the needs of the diverse groups served by USDA, membership shall include individuals who are minorities, women, and persons with disabilities as well as persons who represent a diverse range of experience in different types of production agriculture. In addition, regional balance will be sought so that those representing Native American farmer and ranchers are sought and seated from throughout the country.
6. Candidate Identification Process
- Solicitation of nominations will occur by publishing a notice to solicit applications and nominations through the Federal Register process and by requesting additional nominations from qualified individuals among Tribal elected leaders and key national and regional intertribal organizations.

Once candidates have been identified, their names and background data are submitted to the USDA White House Liaison's office for vetting. The vetting process includes a background check to determine if any of the candidates have a conflict of interest that would prohibit them from serving on the Council due to criminal or ethical violations.

Candidates will be further scrutinized by the USDA's Office of Tribal Relations, Farm Service Agency, Natural Resources Conservation Service, and Office of the Assistant Secretary for Civil Rights according to governing statutes, regulations and administration policy. Candidates will then be submitted for final recommendation(s) to the USDA Chief of Staff (COS). The COS will submit a list of candidates to the Secretary for appointment.

7. Subcommittee Balance

The Designated Federal Officer (DFO) has the authority to create subcommittees and membership on the subcommittees should be approved by the DFO. Subcommittees must report back to the Council and must not provide advice or work products directly to the Secretary. The process for determining membership balance of subcommittees is the same as the process for the Council.

8. Date Prepared or Updated: March 15, 2016

9. Legal Background

Section 5(b)(2) of the FACA requires "...the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee." The corresponding FACA regulations reiterate this requirement at 41 CFR § 102-3.30(c), and, for discretionary committees being established, renewed, or reestablished, require agencies to provide a description of their plan to attain fairly balanced membership during the charter consultation process with GSA (41 CFR § 102-3.60(b)(3)). The document created through this process is the Membership Balance Plan. The regulations further clarify that (1) the purpose of the membership balance plan is to ensure "that, in the selection of members for the advisory committee, the agency will consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions of the advisory committee;" and (2) "[a]dvisory committees requiring technical expertise should include persons with demonstrated professional or personal qualifications and experience relevant to the functions and tasks to be performed." (41 CFR § 102-3.60(b)(3)).

FACA mandates that Federal advisory committees be balanced in the points of view represented by the members, but leaves it to the discretion of each agency on how to do this. The FACA regulations offer guidance in achieving a balanced Federal advisory committee membership, which include considering:

- i. The Federal advisory committee's mission;
- ii. The geographic, ethnic, social, economic, or scientific impact of the Federal advisory committee's recommendations;
- iii. The types of specific perspectives required, such as those of consumers, technical experts, the public at-large, academia, business, or other sectors;
- iv. The need to obtain divergent points of view on the issues before the Federal advisory committee; and
- v. The relevance of State, local, or tribal governments to the development of the Federal advisory committee's recommendations." (41 CFR § III of App. A to Subpart B)